IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14397 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ADMINISTRATOR, DHARI GRAM PANCHAYAT & 1 - Petitioner(s)

Versus

JAYESHKUMAR MULSHANKAR BHATT - Respondent(s)

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Appearance :
MR PJ KANABAR for Petitioner No(s).: 1,2.
MR. HRIDAY BUCH for for Respondent No(s).: 1.
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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

Date : 22/08/2005

ORAL JUDGMENT

1.Mr. P.J.Kanabar, learned advocate of the petitioners, upon instructions received from the Sarpanch, Dhari Gram Panchayat, states that the notice dated 11.4.2001, issued by the then Administrator, Dhari Gram Panchayat to Jayeshkumar Mulshankar Bhatt, the respondent herein

shall be treated as a show-cause notice and the amount stated in the impugned notice shall not be recovered without objectively adjudicating the same. The Panchayat shall also consider the objection raised by the respondent uninfluenced by the averments made in the written statement, strictly in accordance with law.

2. In view of the aforesaid statement made by Mr. P.J.Kanabar, learned advocate of the petitioners, Mr. Hriday Buch, learned advocate of the respondent, does not press the present petition as well as Regular Civil Suit No. 37 of 2001 filed in the Court of learned Civil Judge (JD), Dhari by the respondent against the show-cause notice dated 11.4.2001.

3. The learned advocates appearing for the parties, therefore, urged to pass appropriate orders in this regard.

4. Since Mr. Hriday Buch, learned advocate of the respondent, does not press Reglar Civil Suit No. 37 of 2001, all the proceedings arising therefrom have now become infructuous, including the present petition.

5. In aforesaid view of the matter, this petition as well as Regular Civil Suit No. 37 of 2001, which is pending before the learned Civil Judge (JD), Dhari shall stand disposed of with no order as to costs. Rule is made absolute accordingly to the aforesaid extent.

6. The respondent is hereby directed to file his detailed reply against the show-cause notice dated 11.4.2001 issued by the then Administrator, Dhari Gram Panchayat, against him within a period of 4 weeks hereof and the Dhari Gram Panchayat shall consider the said reply objectively and unifluenced by the contentions raised in the written statement in Regular Civil Suit No. 37

of 2001 and till then there shall not be any recovery stated in the impugned notice. The Dhari Gram Panchayat shall decide the said show-cause notice within a period of 4 weeks thereafter strictly in accordance with law.

7. The writ of this order shall be sent to the learned Civil Judge (JD), Dhari for passing appropriate order on Regular Civil suit No. 37 of 2001 in light of this order.

(A.M.Kapadia,J)

Jayanti*